

Remarks

Claims 1, 3-11 and 13-20 are pending in the application. Claims 1, 3-11 and 13-20 were rejected. No claims were listed as being objected to and no claims were allowed. By the foregoing amendment, the specification is amended, claims 11 and 13-20 are canceled, claims 1 and 3-6 are amended and new claims 27-36 presented. No new matter is added.

Specification

In the specification, amendments are made to correct minor typographical errors. No new matter is added.

Claim Rejections – 35 U.S.C. §112

Claim 5 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner posits that it is unclear how “a table listing” can customize environments listed in a table or the other items listed in claim 5.

Claim 5 is amended to clarify how customizing an environment is performed.

Claims 3-8, 10, 13-18 and 20 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner posits that that claims 3-10 and 13-20 recite limitations related to “environments” and the term has been eliminated in the proceeding [preceding] independent claims, making the claims read less clearly.

Claims 1 and 3-6 are amended to add clarity.

Claim Rejections – 35 U.S.C. §102(e)

Claims 1, 3-11 and 13-20 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,202,023 B1 (Hancock *et al.*). The Applicant respectfully traverses the examiner's rejection.

The examiner posits, in reference to claims 1 and 11, Hancock discloses a method, system and apparatus for customizing one or more devices based on the location of the user, comprising:

- a. Receiving, over a network, user information and location information for the

user;

b. Extracting a current location from the location information;

c. Retrieving a profile for the user, the profile including customization information for a plurality of customizable devices for the user at a plurality of locations including the current location;

d. Communicating over the network with one or more of the customizable devices at the current location to customize the one or more customizable devices based on the customization information in the user's profile for the current location of the user (abstract; col. 1-3).

As stated in MPEP §2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. Of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Hancock does not teach each and every element of claim 1. Hancock teaches away from the present invention. Hancock does not teach "retrieving a profile" or "customizing one or more devices" based on the information in the user's profile where the user is currently located. The term "devices" as used in the present invention are configurable devices as claimed in claim 10. Not a computer.

Hancock teaches a system and method where a user is provided with customized information about their current location with a minimal amount of data entry (col. 3, lines 66-67). The intent of Hancock is to provide data specific to the location of a user when the user is make a query – "provide data that is customized in accordance with a specified location". Hancock does not teach configuring customizable (configurable) devices remotely at a plurality of locations. Hancock does not teach remotely setting a thermostat as in the present invention.

Hancock uses the word "profile" three times where it is directed to a user's "travel profile". "The information in the central repository 65 is selected and sorted, and the travel data 73 is received by the user, creating a travel profile" (col.9, lines 55-58). As claimed in the present invention, profile includes customization information for a plurality of customizable devices at

one or more location, not travel data.

Hancock uses the word “device” to refer to computers that display the results of a query. “Examples of such devices include standard laptop computers, automobile computers and personal digital assistant devices (PDAs) (col. 25, lines 28-32). The word customizable is not found. “Customizable devices” as used in the claims of the present invention, described on pages 4 and 5, lines 28-16) refer not to computers, but devices that have programmable features such as telephones having speed dial buttons and thermostats for controlling room temperature. This is entirely different from Hancock.

As stated in MPEP §2111.01, “During examination, the claims must be interpreted as broadly as their terms reasonably allow. This means that the words of the claims must be given their plain meaning unless applicant has provided a clear definition in the specification.” *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir.1989).

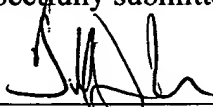
Hancock is customizing data for a given user’s location. Hancock does not teach customizable devices as claim in the present invention.

Hancock does not show all of the elements found in independent claim 1. The Applicant respectfully submits that the elements clearly defined in the independent claims are not taught by the Hancock reference and that Hancock therefore cannot anticipate the present invention. Accordingly, Applicants submits that the pending claims are in condition for allowance.

Should the Director determine that an additional fee is due, he is hereby authorized to charge the fee to Deposit Account No. 01-2745.

If the Examiner believes that a further telephonic interview will facilitate allowance of the claims, she is respectfully requested to contact the undersigned at 610-766-1614.

Respectfully submitted,

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I, Timothy Lubecki, hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22317-1450" on May 28, 2008.

